

MINUTES

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

HON. CHARLES S. COODY, MAG. JUDGE AT MONTGOMERY, ALABAMA

DATE COMMENCED: 9/18/06 AT 10:00 a.m. To 11:55 a.m.

DATE COMPLETED: 9/18/06 AT Digital Recorded

UNITED STATES OF AMERICA

Plaintiff

VS.

FREEMAN STEVENSON

Defendant

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CASE NO.: 2:06CR89-WKW-CSC

GOVERNMENT

Atty. Christopher Snyder

APPEARANCES:

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DEFENDANT

Atty. Anne E. Borelli
Atty. Christine Freeman

COURT OFFICIALS PRESENT:

COURTROOM DEPUTY: WANDA STINSON

LAW CLERK: CORRIE LONG

COURT REPORTER: JAMES DICKENS

(X) OTHER PROCEEDINGS: **MOTION HRG. ON MOTION TO SUPPRESS**

SEE MINUTES ATTACHED

LOG OF PROCEEDINGS ELECTRONICALLY RECORDED

Description	Suppression Hrg. - 06cr89-WKW-CSC	
Date	9 /18/2006	Location Courtroom 4B
Time	Speaker	Note
10:00:06 AM	Court	Court convenes; partis present as noted;
10:00:15 AM	Atty. Borelli	Addresses the court as to readiness to proceed; Defense subpoenaed several witnesses that are not present; Move to compel to get them here;
10:00:26 AM	Court	Were the subpoenas not served?
10:00:31 AM	Atty. Borelli	They were served on the 14th of Sept to the police dept, they were all police officers;
10:00:41 AM	Court	Did you have any contact with police depart at all about those subpoenas;
10:00:47 AM	Atty. Borelli	The subpoenas were served at the police dept;
10:00:49 AM	Court	Have you had contact this morning about them;
10:00:52 AM	Atty. Borelli	No.
10:00:59 AM	Court	Is that unusual Ms. Freeman?
10:01:01 AM	Atty. Freeman	Addresses the court; There are two other officers that we subpoenaed and the Govt. also subpoenaed that are present;
10:01:14 AM	Atty. Snyder	Addresses the court as to the officers present;
10:01:32 AM	Atty. Borelli	Addresses the court as to one of the officers present who was responsible for the inventory search;
10:01:38 AM	Court	Will one of contact the police dept and see if we can find out what the situation is and we can go ahead with the witnesses that are here; Who has the burden in this case?
10:02:05 AM	Atty. Snyder	Believe its the deft;
10:02:09 AM	Atty. Borelli	Believes its the Govt.
10:02:13 AM	Court	Response regarding the briefs; The Govt. admits that there was no probable cause for the stop; It's the Govt. that has the burden;
10:02:45 AM	Atty. Snyder	Addresses the court as to how it wish to proceed; The Govt. will proceed first with officers;
10:02:58 AM	Court	Lets proceed on that then;
10:03:01 AM	Atty. Borelli	Defense would like to Invoke the rule;
10:03:03 AM	Court	Witnesses in this proceedings are excused to wait outside the courtroom until called to testify;
10:03:28 AM	Atty. Snyder	Calls Officer Lance Gambrel; witness is sworn and seated ; Discussion as to alleged incident of Sept 5, 2005 - burglary; Discussion and review of Govt. Exhs # 1 & 2 - Statements by witnesses; Move to admit Govt. Exhs. 1 & 2;
10:10:35 AM	Atty Borelli	Objection - witness did not testify that he took the statement;
10:10:40 AM	Court	The Govt hasn't moved to admit the statement;
10:10:47 AM	Atty. Borelli	The testimony he gave was different from the question asked;
10:10:56 AM	Court	Overruled;
10:11:00 AM	Atty. Snyder	Cont'd testimony; Discussions as to detective doing followup investigations; Discussion of Govt. Exhs 1 & 2; Move to admit Govt. Exhs. 1 & 2;

10:11:55 AM	Atty. Borelli	Are they interviews of the people that Officer Gambrel spoke to;
10:11:57 AM	Atty. Borelli	witness taken on voir dire;
10:12:51 AM	Court	Govt. Exhs. 1 & 2 are admitted;
10:12:59 AM	Atty. Snyder	Cont'd testimony; Discussion as to the incident of Sept. 15, 2005; Discussion as to the search of the vehicle;
10:18:48 AM	Atty. Borelli	Cross - examination; Discussion of the burglary incident; Discussion of items taken from house; Discussion and review of Deft's Exh. #1; Discussion and review of Deft's Exh. #5 - witness statement; Discussion and review Deft's Exh. #11; Move to admit Deft's Exh. 1, 5, & 11;
10:44:48 AM	Atty. Snyder	Objects to Deft's Exh. 11 on relevancy;
10:45:00 AM	Court	What it got to do with anything;
10:45:04 AM	Atty. Borelli	Response - the memory of the witness and his veracity in his report;
10:45:18 AM	Court	How does it go to his veracity?;
10:45:19 AM	Atty. Borelli	Response; Questions to witness;
10:46:07 AM	Court	How does that go to his veracity?;
10:46:17 AM	Atty. Borelli	Response;
10:46:35 AM	Court	Response as to conversation between lawyers have anything to do with anybody's veracity;
10:46:55 AM	Atty. Borelli	We have no further questions;
10:46:58 AM	Court	1 and 5 or admitted; Dft Exh 11 is sustained;
10:47:09 AM	Court	Witness is excused;
10:47:22 AM	Atty. Borelli	Need to ask 2 more questions; Cont'd testimony of witness; Discussion as to where the gun was found;
10:47:54 AM	Atty. Snyder	Calls Cedric Herbert; witness is sworn and seated; Former MP Officer; Discussion of incident of Sept. 5th, burglary incident; Discussion and review of Govt. Exh. #3 - Incident report; Move to admit Govt.'s Exh. #3;
10:54:30 AM	Court	It's admitted;
10:54:35 AM	Atty. Snyder	Cont'd testimony; Discussion of incident of Sept. 15, 2005;
11:02:29 AM	Atty. Borelli	Cross - examination; Discussion and review of Deft's Exh. #1 - Map; Discussion and review of Deft's Exh. #12; Move to admit Deft's Exh. #12;
11:21:19 AM	Court	No objections; It's admitted;
11:21:26 AM	Atty. Snyder	Re - direct; Discussions of the tinted windows; Discussions of Deft's Exh. #1;
11:24:33 AM	Atty. Borelli	Re - cross examination; Discussion and review of Deft's Exh. #3; Move to admit Deft's Exh. #3;
11:27:18 AM	Court	Deft Exh. #3 is admitted;
11:27:24 AM	Atty. Snyder	Re- direct; Review of Deft's Exh. #3;
11:30:00 AM	Court	Witness is excused;
11:30:06 AM	Atty. Snyder	Govt. rest.

11:30:08 AM	Atty. Borelli	Calls Corpl. K.C. Bently; witness is sworn and seated; Discussion as to burglary incident; Discussion as to knowledge of the stop incident of the deft; Discussion and review of Deft's Exh. #4 - Evidence impound for the pistol and magazine; Move to admit Deft's Exh. #4;
11:39:18 AM	Atty. Snyder	No objections;
11:39:18 AM	Court	It's Admitted;
11:39:18 AM	Atty. Borelli	Cont'd testimony
11:39:25 AM	Atty. Snyder	Objection to further questioning of witness; She was not at the scene of the arrest; no relevance to the Terry stop or the miranda issue;
11:39:36 AM	Atty. Borelli	Request to question the witness as to what Officer Gambrel reported to her;
11:39:40 AM	Court	You may;
11:39:42 AM	Atty. Borelli	Cont'd testimony;
11:41:39 AM	Court	Witness is excused;
11:41:55 AM	Atty. Borelli	Moves to compel the remaining police officers;
11:42:00 AM	Court	What do you need them for? Who are they?
11:42:08 AM	Atty. Borelli	Want to go over with them what they observed when they arrived at the scene and the time they arrived at the scene;
11:42:15 AM	Court	They were called after the altercation between Officer Gambrel and Mr. Stevenson;
11:42:33 AM	Atty. Borelli	No sure as what point they were called; There are other circumstances like the time of the stop, what the lighting was like;
11:42:58 AM	Court	How much more evidence about that do you need? Have you talked to them;
11:43:05 AM	Atty. Borelli	No have not;
11:43:09 AM	Court	Response;
11:43:21 AM	Atty. Borelli	
11:43:25 AM	Court	Addresses the issue of subpoena witnesses that counsel has not spoke to;
11:43:55 AM	Atty. Borelli	They were not present at the initial stop;
11:44:09 AM	Court	Response as to evidence accumulative about that?
11:44:15 AM	Atty. Borelli	Response;
11:44:21 AM	Court	Response; Why should the court compel there attendance;
11:44:33 AM	Atty. Borelli	Response - believes that additional evidence could be useful;
11:44:43 AM	Court	Response as to time to make that determination; Discussions as to the two issues in this case, the stop and the miranda issue;
11:45:56 AM	Atty. Borelli	Response as to the differences in the traffic stop and the Terry stop;
11:46:13 AM	Court	Response ; Is it permissible to conduct a traffic stop for a Terry stop?;
11:46:30 AM	Atty. Borelli	Yes.
11:46:33 AM	Court	What's wrong with this one;
11:46:35 AM	Atty. Borelli	Response - when they asked the question they were seeking incriminating evidence from Mr. Stevens;

11:46:40 AM	Court	So.
11:46:42 AM	Atty. Borelli	They had not informed of the purpose of the stop and they had not mirandized him;
11:46:55 AM	Court	Discussion as to Terry stop; Why do they have to be mirandized if they are not in custody?;
11:47:12 AM	Atty. Borelli	Response as to the Terry stop;
11:47:21 AM	Court	Response - the officer has to have reasonable suspicion to conduct a Terry stop ;
11:47:36 AM	Atty. Borelli	Response;
11:49:12 AM	Court	Response - as to unique discription of the truck;
11:49:29 AM	Atty. Borelli	Response;
11:49:40 AM	Court	Response as to color of truck -champagne;
11:49:47 AM	Atty. Borelli	Response;
11:49:53 AM	Court	Discussions as to the color of the truck, hard top and it had spinners;
11:50:04 AM	Atty. Borelli	Yes.
11:50:07 AM	Court	Discussion of Officer Gambrel testimony that he saw the driver of the truck;
11:50:30 AM	Atty. Borelli	Response as to the description of person driving the truck; Discussions of questions asked by officer during a Terry stop;
11:51:30 AM	Court	So.
11:51:38 AM	Atty. Borelli	Response; The officer tells the person why they are being stopped;
11:52:24 AM	Court	Discussions as to a limited stop;
11:52:47 AM	Atty. Borelli	Response;
11:53:20 AM	Court	Argument would amount to policy;
11:53:34 AM	Atty. Borelli	Response;
11:53:39 AM	court	Is there any law that require a police officer to tell somebody why he stops them;
11:53:50 AM	Atty. Borelli	Response;
11:54:09 AM	Court	Undertsing the issues made: Challenging the initial stop and the miranda issue relates to the ponch statement;
11:54:31 AM	Atty. Snyder	Addresses the court;
11:55:21 AM	Court	Court is recessed.